

§ 1254.36 Donated historical materials.

The public use of donated historical materials is subject to restrictions on their use and availability as stated in writing by the donors or depositors of such materials and other restrictions imposed by statute. (Researchers are encouraged to confer with the appropriate director or reference staff member on any question of copyright.) In addition, use is subject to all conditions specified by the Archivist of the United States for purposes of archival preservation.

[59 FR 29194, June 6, 1994]

Subpart D—Access to National Security Information

§ 1254.40 Access to national security information.

(a) Declassification of and public access to national security information and material, hereinafter referred to as “classified information” or collectively termed “information” is governed by Executive Order 12356 of April 2, 1982 (3 CFR, 1982 Comp., p. 166), the implementing Information Security Oversight Office Directive Number 1 of June 22, 1982 (47 FR 27836, June 25, 1982) and the Freedom of Information Act (5 U.S.C. 552).

(b) Public access to documents declassified in accordance with this regulation may be restricted or denied for other reasons under the provisions of 5 U.S.C. 552(b) for accessioned agency records; 36 CFR 1254.36 for donated historical materials; 44 U.S.C. 2201 *et seq.* and 36 CFR part 1270 for Presidential records; and 44 U.S.C. 2111 note and 36 CFR part 1275 for Nixon Presidential materials.

[59 FR 29194, June 6, 1994]

§ 1254.44 Freedom of Information Act (FOIA) requests.

(a) *Requests for access to national security information under the Freedom of Information Act.* Requests for access to national security information under the FOIA are processed in accordance with the provisions of 36 CFR part 1250. Time limits for responses to FOIA requests for national security information are those provided in the FOIA, rather than the longer time limits pro-

vided for responses to mandatory review requests specified by Executive Order 12958, Classified National Security Information (3 CFR, 1995 Comp., p. 333).

(b) *Agency action.* Upon receipt of a request forwarded by NARA for a determination regarding declassification, the agency with declassification responsibility shall:

(1) Advise whether the information should be declassified in whole or in part or should continue to be exempt from declassification;

(2) Provide a brief statement of the reason any requested information should not be declassified; and

(3) Return all reproductions referred for determination, including a copy of each document which should be released only in part, marked to indicate the portions which remain classified.

(c) *Denials and appeals.* Denials under FOIA of access to national security information accessioned into the National Archives of the United States are made by designated officials of the originating or responsible agency or by NARA under a written delegation of authority. You must appeal determinations that records remain classified for reasons of national security to the agency with responsibility for protecting and declassifying that information. NARA will provide you with the necessary appeal information in those cases.

[49 FR 1349, Jan. 11, 1984. Redesignated at 50 FR 15723, Apr. 19, 1985; further redesignated and amended at 51 FR 22076, June 18, 1986; 54 FR 32070, Aug. 4, 1989; 66 FR 16382, Mar. 23, 2001]

§ 1254.46 Public requests for mandatory review of classified information under Executive Order 12356.

United States citizens or permanent resident aliens, Federal agencies, or State or local governments wishing to request mandatory review of classified information that has been accessioned into the National Archives or donated to the Government may do so by describing the document or material containing the information with sufficient specificity to enable NARA to locate it with a reasonable amount of effort. When practicable, a request shall include the name of the originator and

recipient of the information, as well as its date, subject, and file designation. If the information sought cannot be identified from the description provided or if the information sought is so voluminous that processing it would interfere with NARA's capacity to serve all requestors on an equitable basis, NARA shall notify the requestor that, unless additional information is provided or the scope of the request is narrowed, no further action will be taken. NARA shall review for declassification and release the requested information or those declassified portions of the request that constitute a coherent segment unless withholding is otherwise warranted under applicable law. Requests for mandatory review should be addressed to the appropriate NARA depository listed in part 1253.

[49 FR 1350, Jan. 11, 1984. Redesignated at 50 FR 15723, Apr. 19, 1985]

§ 1254.48 Access by historical researchers and former Presidential appointees.

(a) Access to classified information may be granted to U.S. citizens who are engaged in historical research projects or who previously occupied policy-making positions to which they were appointed by the President. Persons desiring permission to examine material under this special historical researcher/Presidential appointees access program should contact NARA at least 4 months before they desire access to the materials to permit time for the responsible agencies to process the requests for access. NARA will inform requesters of the agencies to which they will have to apply for permission to examine classified information, including classified information originated by the White House or classified information in the custody of the National Archives which was originated by a defunct agency.

(b) Requestors may examine records under this program only after the originating or responsible agency:

(1) Determines in writing that access is consistent with the interest of national security;

(2) Takes appropriate steps to protect classified information from unauthorized disclosure or compromise, and ensures that the information is safe-

guarded in a manner consistent with Executive Order 12356; and

(3) Limits the access granted to former presidential appointees to items that the person originated, reviewed, signed, or received while serving as a presidential appointee.

(c) To protect against the possibility of unauthorized access to restricted documents, a director may issue instructions supplementing the research room rules provided in subpart B.

[49 FR 1352, Jan. 11, 1984. Redesignated at 50 FR 15723, Apr. 19, 1985 and 51 FR 22076, June 18, 1986; 59 FR 29194, June 6, 1994]

§ 1254.50 Fees.

NARA will charge requesters for copies of declassified documents according to the fees listed in §1258.12 of this chapter.

[59 FR 29194, June 6, 1994]

Subpart E—Information, Reproduction, and Authentication Services

§ 1254.70 NARA copying services.

(a) The copying of documents will be done by a contractor or NARA staff with equipment belonging to NARA. NARA reserves the right to make a duplicate, at NARA expense, of any material copied. Such duplicates may be used by NARA to make additional copies for others.

(b) In order to preserve the original documents, documents which are available on microfilm or other alternate copy will not be copied by other means as long as a legible copy (electrostatic, photographic, or microfilm) can be made from the microfilm.

[52 FR 20080, May 29, 1987; 59 FR 29194, June 6, 1994, as amended at 64 FR 19903, Apr. 23, 1999]

§ 1254.71 Researcher use of the self-service card-operated copiers in the National Archives Building and the National Archives at College Park.

(a) *General.* Self-service card-operated copiers are located in research rooms in the National Archives Building and the National Archives at College Park. Other copiers set aside for use by reservation are located in designated research areas. Procedures for